IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7620 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NIMESH GAS SERVICE

Versus

DISTRICT COLLECTOR

Appearance:

MR PK JANI for Petitioner

MR RC KODEKAR, AGP for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/12/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the order dated 17.4.1993 (Annexure "F") passed by the State Government in Food and Civil Supplies Department dismissing the petitioner's appeal and confirming the

order dated 22.10.1990 (Annexure "D") passed by the Collector, Banas Kantha confiscating the value of 25 cylinders filled with gas and 100 empty gas cylinders quantified at Rs.57,875/- under the provisions of the Gujarat Essential Articles (Licensing, Control & Stock Declaration) Order, 1981 and Liquid Petroleum Gas (Regulation) Order, 1988.

2. The petitioner was granted licence under the aforesaid Licensing Order for selling LPG gas cylinders. On 29.5.1998, the District Supply Officer inspected the business premises of the petitioner and found certain irregularities including some serious irregularities which resulted into issuance of a show cause notice to the petitioner and the aforesaid order of confiscation. Briefly stated, the impugned action was taken against the petitioner considering the fact that the petitioner had committed various irregularities and illegalities. After giving the petitioner an opportunity of being heard, the Collector, Banas Kantha passed the order dated 22.10.1990 holding the petitioner to be guilty of the allegations made against the petitioner. The petitioner carried the matter in appeal where the findings on fact given by the Collector were confirmed. Now the findings given by the State Government are challenged in this petition.

3. The order of confiscation was passed in view of the findings on the following allegations in which the Collector as well as the State Government found substance:-

(i) After the oil Company sanctions gas connections, the agency is required to release the connections and issue cards only after verifying the authenticiy of the ration card and to mention the ration card number in the documents. The object of insisting on ration card was to make sure that since only one ration card is issued to one family, consequently one family would not be able to get more than one cylinder. A family can have only one ration card and, therefore, it will be easier for the authorities to verify the genuineness or otherwise of the person who claims gas refill cylinder.

(ii) The petitioner-firm and its employee Anilkumar Raval, who also happens to be the brother-in-law of the petitioner, admitted at the time when the officers of the Food & Civil Supplies Department inspected the petitioner's premises that four parties were issued new gas connections

unauthorisedly. This fact was admitted by Anilkumar Raval, who is also the brother in law of the petitioner. Thus, as per the prepared list the gas connections were sanctioned in favour of particular parties, but the petitioner had given unauthorised connections to the four parties in disregard of the above prepared list.

(iii) The petitioner was, although delivering LPG gas refills at her business premises, not carrying out the instructions given by the Indian Oil Corporation for giving immediate delivery of gas cylinders to consumers.

(iv) 149 refilled gas cylinders were sold by the petitioner without issuing any bill.

(v) The petitioner and her husband were behaving very roughly with the customers.

(vi) The oil Company had sanctioned the new connections in or prior to August, 1988 and the petitioner was informed about the sanction of the said connections and the petitioner was to release the connections by complying with the mandatory requirements. However, the gas connections which were to be released in August, 1988 were actually released in November, 1988. The connections given to consumers were also permitted to be misused. It was also found that 20 gas connections were wrongly released.

The complaints made against the petitioner were also made before the dignitaries like a Member of Legislative Assembly from the area and also the Collector and Minister.

4. In view of the above serious acts of commission and omission, it cannot be said that the impugned order is perverse or suffers from vice of non-application of mind.

5. The petitioner has sought to challenge the order by raising various contentions. All these contentions pertain absolutely to factual aspects. Both the Collector as well as the State Government have given concurrent findings of fact that the petitioner had committed certain serious irregularities prohibited by the relevant provisions of the Licensing Order, 1981 and also of the Liquid Petroleum Gas (Regulation) Order, 1988.

6. It is lastly contended that the penalty of confiscation of the value of 25 refilled cylinders and 100 empty cylinders is disproportionate.

However, in the facts and circumstances of the case, particularly in view of the fact that the serious allegations of irregularities have been found to be proved, it cannot be said that the order of confiscation is disproportionate to the seriousness of the allegations found to be true.

6. In view of the above discussion, the petition is dismissed. Rule is discharged.

(M.S. Shah, J.)

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